

DIST/OFFICE	DOCKET YR.	NUMBER	FILING DATE MO. DAY YEAR	J	N/S	O	R	H 23	\$	DEMAND OTHER	JUDGE NUMBER	JURY DEM.	YR.	DOCKET NUMBER
1085/4	76	0637-B	12 20 76	3	440	1			254		8510 8509	P	76	0637- B ^C

PLAINTIFFS

ZEIGLER, FRANK AUSTIN.

DEFENDANTS

COMSTOCK, D. R., individually and
as an Officer of Tulsa Police
Department;
McCULLOUGH, SAM, individually and
as an Officer of Tulsa Police
Department;
MALONE, S.N., individually and as an
Officer of Tulsa Police Department;
WALKER, LEE, individually and as
an Officer of Tulsa Police
Department;
STEGE, HARRY, individually and as
a Deputy Chief of Tulsa Police
Department.

CAUSE

T. 42, U.S.C.S., Sections 1983 and 1985. Civil Rights.

ATTORNEYS

David L. Pauling *Lucas Harris*
~~Tom R. Gann~~ (All Defendants)
Assistant City Attorney
200 Civic Center, Room 1012
Tulsa, Oklahoma 74103
(918) 581-5201

Paul D. Brunton
1717 South Cheyenne
Tulsa, OK 74119
(918) 582-1993

James O. Goodwin

Gordon D. McAllister, Jr. *(P.D. 584-5194)*
122 North Greenwood
Tulsa, OK 74120
(918) 582-9181

☐ CHECK
HERE
IF CASE WAS
FILED IN
FORMA
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FILING FEES PAID

DATE

RECEIPT NUMBER

C.D. NUMBER

STATISTICAL CARDS

CARD DATE MAILED

JS-5 Jan. 1, 1977

JS-6 8-1-79

B

DATE	NR.	PROCEEDINGS
'76		Zeigler v. Comstock, et al.
12-20	1.	Complaint filed and summons issued. v
12-22	2.	Demand for jury trial by plaintiff, filed. rm
12-29	--	Summons, ret & filed: Served D. R. Comstock at Tulsa, OK, on 12-22-76; Served Sam McCullough at Tulsa, OK, on 12-22-76; Served S. N. Malone at Tulsa, OK on 12-22-76; Served Lee Walker at Tulsa, OK, on 12-21-76; Served Harry Stege at Tulsa, OK on 12-21-76. (USM \$15.00)ph
1977		
2-15	3.	Affidavit of Gordon McAllister, Jr., for entry of default, filed.k
2-15	4.	Request of pltf. for Clerk to enter default against defts., filed.k
2-15	5.	Certificate for entry of default by Clerk, filed & entered. (JCS-Clk)k
2-16	6.	Mot. of Pltf. for entry of default judgment by Court against Defts. Comstock, McCullough, Malone, Walker and Stige, fld. v (o) <i>re Walker, not to be in.</i>
2-18	7.	Entry of appearance by Tom R. Gann for all deft's and motion to set aside default judgment. fld. ho
2-18	MO	The court has for consideration the entry of appearance and motion to set aside default judgment filed this date by the deft's., and having noted that deft's request a waiver of the local rules to allow the deft's. to file their brief in support thereof w/in 15 days and additionally to amend their motion to set aside default if necessary, and the ct being fully advised in the premises, IT IS ORDERED that deft's. are granted an additional 15 days to file their brief in support of motion to set aside default, and that the ct will consider an appl. to amend said motion, if filed by deft's. (AEB-J) cps mld. ho
3-4	8.	Defts' appl. to amend motion to set aside default judgment, filed.k
3-4	9.	Defts' memorandum brief in support of mot. to set aside default judgment, filed.k
3-10	10	Order, filed, approving defts' appl. for leave to amend mot. to set aside default judgment. (AEB-J)k cps mld
3-18	11	Pltf. mot. to strike Defts' amended mot. to set aside default judgment and memorandum brief in support thereof for lack of verification. fld. ho
3-18	12	Pltf. memorandum brief in support of mot. to strike. fld. ho
3-21	MO	It is ordered by the Ct. that The Deft. file a responsive brief w/in 10 days to Pltf. Motion to Strike Defts. Amended Motion to Set Aside Default Judgment and Memorandum Brief in Support Thereof for Lack of Verification. fld. (AEB-J) cps mld. ho
3-18	13.	Pltf's combined appl. for time to respond, if necessary, to defts' amended mot. to set aside default judgment, after decision on pltf's mot. to strike, and for hearing on matters, filed.k <i>0 to Jas part of appl</i>
3-23		Order, as part of appl., filed, granting pltf. 10 days from ruling on pltf's mot. to strike to respond to defts' amended mot. to set aside default judgment, and not granting hrg. at this time. (AEB-J)k cps mld
3-24	14	Defts' brief in response to pltf's mot. to strike amended mot. to set aside default judgment for lack of verification, filed.k
5-19	15	Order, filed, that defts' appl. to amend mot. to set aside default judgment is granted and pltf's mot. to strike defts' amended mot. to set aside default judgment is overruled. Further, that pltf's appl. for ext. of time to respond and request for hrg. is denied. Further, that defts' mot. to set aside default judgment is granted and said entry of default is hereby set aside. Further, that pltf's motion for entry of default judgment by the Court is denied. Further, defts. are ordered to file their answer to the complaint within 15 days from this date. (AEB-J)k cps mld
5-25	16.	Pltf.'s interros. to Defts. D.R. Comstock, S.N. Malone & Sam McCullough, fld. y

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. _____
FRANK AUSTIN ZIEGLER		D.R. COMSTOCK, et al	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
1977			
6-3	17	Defts. D.R. Comstock, Sam McCullough, S. N. Malone, Lee Walker, & Harry Stege, appl. with order granting an ext. of 15 days until 6-19-77 to plead or ans. (JCS-Clk) cps mld. by atty. ho	
6-20	18.	Appl. of Defts. for add. time to ans. compl., fld. v (o)	
6-21	19	Pltf. request to Clk. to enter default. fld. ho	
6-21	20	Pltf. affidavit for entry of default. fld. ho	
6-21	21	Pltf. certificate for entry of default by clerk. fld. ho	
6-21	22	Pltf. mot. for entry of default judgment by Ct. fld. ho 0 to J.	
6-23	23	Pltf. objection to Defts. appl. for additional time to plead or ans. and request for interim atty. fees. fld. ho	
6-24	24	Defts. appl. for additional time to ans. Pltfs. interrog. fld. ho 0 to J.	
7-1	25	Defts. amendment to appl. for additional time to plead or ans. fld. cpy to Marilyn by Atty. ho	
7-1	26.	Order, filed, granting defts. until 7-8-77 to plead or answer and no further extensions will be granted. Further, pltf's objection to defts' appl. for time is overruled. That the request to the Clerk to enter default and mot. for entry of default judgment by the Court are overruled. That pltf's request for interim atty. fees be stayed pending the outcome of this litigation. And that the defts' appl. for additional time to answer pltf's interogs. is granted and defts. have until 7-9-77 to file said answers to interogs. (AEB-J)k cps mld	
7-6	27.	Defts' combined motions to dismiss and motion to strike, filed.k	
7-6	28.	Memorandum brief in support of defts' mots. to dismiss and to strike, filed.k	
7-6	MO	It is ordered by the Court that the Plaintiff file a responsive brief within 10 days to defts' combined mots. to dismiss and to strike. (AEB-J)k cps mld	
7-11	29	Defts. D. R. Comstock, S. N. Malone & Sam McCullough ans. to Pltf. interrog. fld. ho	
7-13	30	Pltf. request to Clk. to enter default. fld. ho	
7-13	31	Pltf. affidavit for entry of default. fld. ho	
7-13	32	Pltf. certificate for entry of default by Clk. fld. ho	
7-13	33	Pltf. mot. for entry of default judgment by Ct. fld. ho	
7-14	34	Pltf. mot. to compel discovery and for expenses. fld. ho	
7-14	MO	It is ordered by the Ct. that the Defts. Comstock, Malone & McCullough file a responsive brief w/in 10 days to Pltf. mot. to compel discovery and for expenses. (AEB-J) cps mld. ho	
7-18	35	Pltf. response to Defts. brief in supp. of combined mot. to dismiss and mot. to strike. fld. ho	
7-21	36	Defts., Comstock, Malone & McCullough amendments to their ans. previously filed herein to Pltfs. interrog. and said Defts verification of their ans. and amendments thereto. fld. ho	
7-25	37	Defts. response to Pltf. mot. for entry of default judgment by Ct. fld. ho	
7-25	38	Defts. response to Pltf. mot. to compel discovery and for expenses fld. ho	
7-29	39	Pltf. reply to Defts. response in mot. to compel discovery. fld. ho	
8-29	40	Order, filed, overruling pltf's mot. to compel discovery and for expenses, pltf's request for default and defts' mot. to dismiss and mot. to strike. Deft. are ordered to answer the compl. w/in 20 days. (AEB-J)k cps mld	

B

PLAINTIFF		DEFENDANT	DOCKET NO. _____
			PAGE ____ OF ____ PAGES
DATE 1977	NR.	PROCEEDINGS	
9-16	41	Answer of defts. , filed.k	
10-19	DEPO.	Deposition of Frank Austin Zeigler, taken on behalf of Defts., on 8-1-77, before Evelyn E. rutherford, CSR, w/fees of \$236.25, pd. by Defts., fld. v	
12-13 1978	MO	Parties are directed to hold pre-trial conf. on or before 1-24-78 & file an agreed pre-trial order on or before 1-31-78. (AEB-J)k cps mld	
1-13	42	Joint appl. to strike to next. PT docket. fld. ho 0 to J.	
1-17	MO	The Court has for consideration the joint appl. to strike case from pretrial docket & reset on next pretrial docket, finds that said appl. should be granted. IT IS SO ORDERED. (AEB-J)k cps of orig order mld	
4-6	43.	Pltf's motion to set case on pre-trial docket, filed.k	
4-6	MO	Parties are directed to hold pre-trial conf. on or before 6-1-78 & file pre-trial order on or before 6-8-78. (AEB-J)k cps mld	
6-12	44	Joint request for ext. of time to file PTO, fld. ho 0 to J.	
6-13	MO	Parties are granted until 7-1-78 to file an agreed pre-trial order. (AEB-J)k cps of orig. order mld to pltf.	
7-3	45	Joint request for ext. of time to file PTO. fld. ho 0 to J.	
7-7	46	Order, filed, granting parties until 8-1-78 to file an agreed pre-trial order. (AEB-J)k cps mld to deft counsel	
8-7	47.	Pre-trial order, filed. (AEB-J)hm (copies mailed)	
9-8	--	Depo. of Linda Pence taken on behalf of Defts. on 7-25-78 in Shreveport, LA, by Sonja L. McDaniel, Ct. Reporter. fld. ho 70 pgs. Plus Exhibits. received opened.	
9-15	MO:	Case is set for jury trial on 10-10-78, at 9:30 A.M. (AEB-J)b nts cert. w/affid	
9-26	MO:	Upon the oral request of one of the defts', IT IS ORDERED that case is stricken from jury docket of 10-10-78, to be reset on the next jury docket. (AEB-J)b nts mld	
10-16	MO:	Case is set for jury trial on 11-13-78, at 10:00 A.M. (AEB-J)b nts cert w/affid	
11-3	48	Pltf's req. prod. of documents, filed. lm	
11-3	49	Memo brf. in support of pltf's req. prod. of documents, filed. lm	
11-3	50	Pltf's mot/strike from jury trial docket for continuance to next docket, filed. lm (o to J)	
11-6	51	Defts' objections to pltf's mot. to strike 11-13-78 jury trial setting and affidavit of David L. Pauling, filed.k	
11-8	52	Order, fld. It is ordered that the mot. of the Pltf. to strike this case from the jury docket set for 11-13-78, is denied. It is further ordered that the objections of the Defts. to said mot. is sustained. (AEB-J)ho c/m	
11-9	MO	Upon the oral request of the Pltf. IT IS ORDERED that this case is stricken from the 11-13-78, jury docket, to be reset on the next jury docket in December. IT IS FURTHER ORDERED that the parties are ordered to complete all discovery within 20 days from this date. IT IS FURTHER ORDERED that no further continuances will be granted. (AEB-J)ho c/m	

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT B	DOCKET NO. _____
		PAGE ____ OF ____ PAGES	
DATE	NR.	PROCEEDINGS	
1978			
11-13	53	Entry of appearance of James O. Goodwin as atty. for Pltf. fld. ho	
12-4	MO:	Case set for jury trial 1-8-79, 9:30 AM. (AEB-J) b nts cert w/affid	
12-5	54	Defts. response to Pltf. request for production of documents, fld. ho	
12-7	55	Pltf. supplemental list of witnesses for trial, fld. ho	
12-14	56	Defts. not. concerning use of depo. testimony of Linda L. Pence, fld. ho	
12-14	57	Defts. request for preliminary determination outside hrg. of jury concerning admissibility of witness testimony, fld. ho	
12-18	MO	It is ordered that the request for preliminary determination outside hearing of jury concerning admissibility of Witness testimony, fld. by the Defts. be referred to the U. S. Mag. for hrg. & F/R pursuant to M-128 & Title 28 USC §636. It is further ordered that the Mag. file his recommendations prior to the setting of this case for jury trial. The case is set for jury trial on 1-8-79. (AEB-J) ho c/m	
12-19	58	Pltf. mot. to compel discovery, fld. ho	
12-19	59	Pltf. mot. to add additional party, fld. ho	
12-19	MO	It is ordered that the Pltf. mot. to compel discovery & mot. to add additional party is referred to the U. S. Mag. for hrg. & F/R pursuant to M-128. It is further ordered that the Mag. file his F/R prior to the setting of this case for jury trial. The case is set for jury trial on 1-8-79. (AEB-J) ho	
12-19	--	Depo. of Samuel McCullough, Jr. taken on behalf of the Pltf. on 11-22-78 by Linda A. Walker, CSR w/fees of \$165.00 pd. by Pltf. fld. ho	
12-19	MO	Case set for hrg. before the Mag. on defts' request for prelim. determination of testimony, pltf's mot. to compel discovery & on pltf's mot. to add addtl. party, on 12-27-78 at 9:30 a.m. (RSR-Mag) k ntc by KT	
12-20	MO	Hrg. before the Mag. set for 12-27-78 at 9:30 a.m. is stricken upon request of the parties, & reset on 1-3-79 at 10:00 a.m. (RSR-Mag) k	
12-22	58a	Pltfs. request for determination on his mot. to compel cps by KT & mot. to add additional parties along with a request for preliminary determination outside hearing of the jury concerning admissibility of witness testimony & certain exhibits, fld. ho	
1979			
1-2	59a	Pltf. mot. for oral depo., fld. ho	
1-2	60	Pltf. brief in supp. of mot. to take depo. fld. ho	
1-3-79	Min.	Hearing on motions stricken & will be reset on 1-5-79 at 2:00 p m. Parties advised by telephone. (RSR-Mag) b	
1-3-79	61	Defts. mot. for order in limine, fld. ho	
1-3-79	62	Defts. brief in supp. of mot. in limine, fld. ho	
1-3-79	63	Defts. trial brief, fld. ho	
1-3-79	64	Defts. requested voir dire, fld. ho	
1-3-79	65	Defts. requested jury instructions, fld. ho	
1-5-79	** See	other side for Mag. Rizlev minute from hrg.	
1-5	66	Defts' proposed witnesses, filed. k copy to Leonard	
1-8	67	Pltf. trial brief fld. ho	
1-8	68	Pltf. proposed area of voir dire questions, fld. ho	

CIVIL DOCKET CONTINUATION SHEET

B

PLAINTIFF		DEFENDANT	DOCKET NO. _____
			PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
1-8-79		Case called for jury trial. Parties pres. Ptf. makes statement in regard to motion for deposition if time permits. Deft. objects to deposition. Ct. takes under advisement & will notify parties. Jury selection will be 1-11-79, 10:00 A.M. before Magistrate Rizley upon order of the Court. Case is on trailing docket. (AEB-J)b	
1-5**		Case called for hearing on motions. Parties pres. Mrg. held. Mag. recommendations: Pltf's motion to compel discovery; sustained in part & overruled in part. Pltf's motion to add add'l party overruled. Pltf's request for preliminary determination outside hrg. of Jury concerning admissibility of witness testimony - sustained in part & overruled in part. Defts' request for preliminary determination outside hrg. of jury concerning admissibility of witness testimony - sustained in part & overruled in part. Defts' motion for order in limine - sustained in part & overruled in part. Hrg. concluded. Deft. to prepare F&R & Order by 1-8-79. (RSR-Mag) b	
1-8-79	69	Notice of taking deposition of designated defense witness Dr. Bert Bergland on 1-11-79, 3:00 P.M. by Deft., filed. b	
1-9-79	70.	Notice of Pltf's objection to taking deposition of designated defense witness, filed. b	
1-9-79	71.	Motion for Order barring taking of notice of deposition, filed. b	
1-9	72.	Affidavit in support of ORDER for Motion barring taking of noticed deposition, filed. b	
1-9	--	Reporters transcript of mots. proceedings had on 6-14-76 in Municipal criminal Ct. of the City of Tulsa, before L. A. Yeagley, Judge, in re: Case No. 217993 B & C City of Tulsa vs. Frank A. Zeigler, before Linda A. Walker, CSR, fld. ho	
1-10	73	Order, filed, that pltf's mot. to take video tape deposition is denied and overruled; that pltf's obj. to the taking of the depo. of Dr. Bergland is overruled; and that case is reset for 2-12-79 jury docket. Parties are ordered to complete all discovery 10 days prior to jury trial. (AEB-J)k ntc by phone & cps mld	
1-10	74	Defts' exhibit affidavit, filed.k	
1-10	75	Defts' proposed witnesses, corrected, filed.k	
1-10	76	Pltf. mot. for order to show cause why Defts. atty. should not w/draw as counsel for Defts. or in the alternative, w/draw certain witnesses from testifying, fld. ho O to J.	
1-10	77	Pltf. brief in supp. of mot. to show cause, fld. ho	
1-11	MO	It is ordered that the Defts. file a responsive brief on or before 1-24-79 to Pltf. mot. for order to show cause why Defts. attys. should not. w/draw as counsel or in the alternative w/draw certain witnesses from testifying. (AEB-J)ho c/m	
1-16	78	Findings & Recommendations of the Magistrate, filed. Mag. recommends that defts' mot. to determine admissibility of testimony & exhibits be sustained & overruled in parts; defts' mot. in limine sustained & overruled in parts; certain exhibits of defts. should be added to the pre-trial order upon instant oral mot.; that pltf's mot. to add City of Tulsa as addtl. party deft. be overruled; pltf's mot. to take videotape depo. of Lence Pence be overruled at this time; pltf's mot. to determine admissibility of testimony & exhibits be sustained &	

CIVIL DOCKET CONTINUATION SHEET

FPI-MAR

PLAINTIFF		DEFENDANT	DOCKET NO. <u>76-C-637</u>
Frank Austin Zeigler		D. R. Comstock, et al	PAGE <u>7</u> OF <u>4</u> PAGES
DATE 1979	NR.	PROCEEDINGS	
1-16	78	overruled in parts; and that pltf's mot. to compel discovery be sus- Continued tained & overruled in parts. (RSR-Mag)k cps mld by deft counsel	
1-23	79	Defts. brief in response to Pltfs. mot. for order to show cause why Defts. atty. should not w/draw as counsel for Defts. or, in the alternative, w/draw certain witnesses from testifying, w/affid. of Waldo F. Bales & Jack Morgan, fld. ho Cpy. to M.C.	
1-24	MO:	Case is set for jury trial on 2-12-79, 10:00 A.M. (AEB-J)b nts cert ml	
1-24	80	Pltf's notice of taking deposition of designated pltf's witness, Linda Pence, on 2-2-79, at Wash. D. C., filed.k	
1-29	81	Defts' mot. for protective order barring taking 2nd deposition of Linda Pence, & mot. for alternative and supplementary orders, fld.k	
1-29	82	Consolidated brief in support of defts' mot. for protective order & for alternative relief, filed.k	
1-30	MO	IT IS ORDERED that defts' mot/protective order barring taking 2nd depo. of Linda Pence & Mot. for alternative & suppl. orders is re- ferred to Mag. Robert Rizley, pursuant to M-128 & T. 28 USC §636, et seq. FURTHER, pltf's mot. to show cause why defts' atty. should not w/draw, etc. fld 1-10-79, is also referred to Mag. Rizley. (AEB- J)k	
1-30	Min	Case called for hrg. before the Mag. on pending matters, parties having been notified earlier by phone of setting. Parties repre- sented. Pltf. w/draws mot. for w/drawal of defts' atty, etc. Mag. finds defts' mot. for protective order should be sust. & overruled in parts. Deft. counsel to prepare Order by 2-1-79. (RSR-Mag)k	
1-30	83	Order, filed, approving F&R of the Mag. filed 1-16-79. (AEB-J)k cps mld <i>to McAllister & Pauling</i>	
2-1	84	Order, filed, that defts' mot. to bar 2nd depo. of L. Pence is over- ruled & sust. in parts, that defts' alternative mot. to limit scope of depo. is sust., & that defts' suppl. mot. for costs is sustained. (RSR-Mag)k cps mld to McAllister & Pauling	
2-1	85	Pltf. written depo. of Linda Pence, fld. ho	
2-12-79		Case called for jury trial. Parties present & announce ready. Parties advised to keep in contact with Court & will be on trailing docket. If agreement is reached to referencing case advised to notify Court. This case will be first civil jury trial following 2 criminal trials. (AEB-J)b	
3-16	MO	Case transferred to Judge H. Dale Cook. (JCS-Clk)k	
6-13	MO	CASE SET FOR JURY TRIAL BEFORE JUDGE HOWARD C. BRATTON ON 7-30-79 AT 9:30 A.M. Trial brfs., req. instruc. & req. voir dire due 7-13-79. (HDC-J)k ntc mld	
7-5	MO:	ORDER that case is transferred to Judge Bratton. (HDC-J)ra	

CIVIL DOCKET CONTINUATION SHEET

FPI-MAR

PLAINTIFF FRANK AUSTIN ZEIGLER	DEFENDANT D. R. COMSTOCK, ET AL.	DOCKET NO. 76-C-637 Sheet 4, Page 8 XXXXXXXXXXXX
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DATE	NR.	PROCEEDINGS
1979		
7/24	86.	STIPULATION OF DISMISSAL WITH PREJUDICE, FILED & ENTERED. v
9-26	---	DEPOSITIONS sent back to respective parties.am